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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 EDWARD PENA ,

12 Plaintiff(s),

13 v.

14 INTERNATIONAL MEDICAL DEVICES,
INC., et al.

15 Defendant(s).

Case No. 2:22-cv-03391-SSS-PLA

**ORDER SETTING SCHEDULING
CONFERENCE**

Date: July 21, 2023

Time: 1:00 p.m.

Courtroom: 2

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19 **PLEASE READ THIS ORDER CAREFULLY. IT CONTROLS THIS**
20 **CASE AND DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.**

21 This case has been assigned to United States District Judge Sunshine S. Sykes.
22 This matter is set for a Scheduling Conference on the above date in Courtroom 2 of
23 the George E. Brown, Jr. Federal Building and United States Courthouse, 3470
24 Twelfth Street, Riverside, CA 92501. If Plaintiff has not already served the
25 operative complaint on **all** Defendants, Plaintiff shall do so **promptly** and shall file
26 proofs of service of the summons and complaint within three (3) days thereafter. *See*
27 Federal Rule of Civil Procedure 4; Local Rule 4. Defendants also shall timely serve
28 and file their responsive pleadings and comply with the requirements of Local Rule

1 5-3.2. At the Scheduling Conference, the Court will set a date by which motions to
2 amend the pleadings or add parties must be heard.

3 The Scheduling Conference will be held pursuant to Federal Rule of Civil
4 Procedure 16(b). The parties are reminded of their obligations under Federal Rule
5 of Civil Procedure 26(f) to make initial disclosures without awaiting a discovery
6 request and, under Federal Rule of Civil Procedure 26(f), to confer regarding a
7 discovery plan at least twenty-one (21) days before the Scheduling Conference.
8 The Court encourages counsel to agree to begin to conduct discovery **before** the
9 Scheduling Conference. At the very least, the parties shall comply fully with the
10 letter and spirit of Federal Rule of Civil Procedure 26(a) and obtain and produce
11 most of what would be produced in the early stage of discovery as the Court will
12 impose strict deadlines to complete discovery at the Scheduling Conference.

13 **This Court does not exempt parties appearing pro se from compliance**
14 **with any of the Federal Rules of Civil Procedure and the Local Rules,**
15 **including Local Rule 16. See Local Rules 1-3, 83-2.2.3. “Counsel,” as used in**
16 **this order, includes parties appearing pro se.**

17 **I. Joint Rule 26(f) Report**

18 The Joint Rule 26(f) Report must be filed at least fourteen (14) days before the
19 Scheduling Conference. Mandatory paper chambers copies of the Joint Rule 26(f)
20 Report must be delivered to Judge Sykes’ drop box outside the door of Courtroom
21 2 by 5:00 PM on the first court day following the e-filing.

22 The Joint Rule 26(f) Report shall be drafted by Plaintiff (unless the parties
23 agree otherwise) but shall be submitted and signed jointly. If the Plaintiff is
24 appearing pro se, the Joint Rule 26(f) Report shall be drafted by Defendant’s
25 counsel (unless Plaintiff prefers to do so). “Jointly” means a single report
26 regardless of the number of separately represented parties involved in the case. The
27 Joint Rule 26(f) Report shall specify the date of the Scheduling Conference on the
28 caption page and shall report on all matters described below as specified by Federal

1 Rule of Civil Procedure 26(f) and Local Rule 26:

2 a. Statement of the Case: A short synopsis (not to exceed two pages) of
3 the main claims, counterclaims, and affirmative defenses.

4 b. Subject Matter Jurisdiction: A statement of the specific basis of federal
5 jurisdiction, including supplemental jurisdiction. If there is a federal question, cite
6 the federal law under which the claim arises.

7 c. Legal Issues: A brief description of the key legal issues, including any
8 unusual substantive, procedural, or evidentiary issues.

9 d. Parties and Evidence: A list of parties, percipient witnesses, and key
10 documents or other evidence concerning the main issues in the case. For conflict
11 purposes, corporate parties must identify all subsidiaries, parents, and affiliates.

12 e. e. Service of Complaint: A short statement regarding whether Plaintiff
13 has served a summons and complaint upon each and every Defendant. If there
14 are any outstanding Defendants to whom Plaintiff has not yet served a summons
15 and complaint, a list of each Defendant which includes the reason Plaintiff has not
16 yet served them. Failure to show good cause as to why Plaintiff has failed to serve
17 each Defendant may result in dismissal of each such Defendant from the case
18 without prejudice for failure to prosecute.

19 f. Damages: The realistic range of provable damages.

20 g. Insurance: Whether insurance coverage exists, the extent of coverage,
21 and whether there has been or will be a reservation of rights.

22 h. Motions: A statement of the likelihood of motions seeking to add other
23 parties or claims, file amended pleadings, transfer venue, or challenge the Court's
24 jurisdiction.

25 i. Dispositive Motions: A description of the issues or claims any party
26 believes may be determined by motion to dismiss or motion for summary judgment.
27 The parties should refer to the Court's Standing Order for specific guidelines
28 governing summary judgment motions.

1 j. Manual For Complex Litigation: Whether all or part of the procedures
2 of the Manual For Complex Litigation should be utilized.

3 k. Status of Discovery: A discussion of the present state of discovery,
4 including a summary of pending and completed discovery, and any current or
5 anticipated disputes.

6 l. Discovery Plan: A detailed discovery plan, as contemplated by Federal
7 Rule of Civil Procedure 26(f). State what, if any, changes in the disclosures under
8 Federal Rule of Civil Procedure 26(a) should be made, the subjects on which
9 discovery may be needed, whether discovery should be conducted in phases or
10 otherwise be limited, whether applicable limitations should be changed or other
11 limitations imposed, and whether the Court should enter other orders. A general
12 statement that discovery will be conducted as to all claims and defenses or another
13 vague description is not acceptable.

14 m. Fact Discovery Cut-off: A proposed discovery cut-off date governing
15 the completion of all fact discovery, including resolution of all discovery motions.

16 n. Expert Discovery: Proposed dates for initial and rebuttal expert witness
17 disclosures and expert discovery cut-off under Federal Rule of Civil Procedure
18 26(a)(2).

19 o. Settlement Conference / Alternative Dispute Resolution (“ADR”): A
20 statement of what settlement negotiations have occurred, **excluding any statement**
21 **of the terms discussed**. If a Notice to Parties of Court-Directed ADR Program
22 (Form ADR-08) was filed in this case, the Court will refer it to the Magistrate
23 Judge, the Court Mediation Panel, or to private mediation at the parties’ expense.
24 The parties must state their preference in the Joint Rule 26(f) Report. The Court
25 will exercise its discretion to select an ADR option for the parties if they fail to
26 state a preference. No case will proceed to trial unless all parties, including an
27 officer with full settlement authority for corporate parties, have appeared personally
28 at an ADR proceeding.

1 p. Trial Estimate: A realistic estimate, in days, of the Court time required
2 for trial and whether trial will be by jury or by the Court. Each side should specify
3 by number, not by name, the number of witnesses it contemplates calling. If the
4 time estimate for trial given in the Joint Rule 26(f) Report exceeds four (4) court
5 days, counsel must address in detail in the Report the basis for the estimate.

6 q. Trial Counsel: The name(s) of the attorney(s) who will try the case.

7 r. Independent Expert or Master: Whether the Court should consider
8 appointing a master pursuant to Federal Rule of Civil Procedure 53 or an
9 independent scientific expert at the parties' expense. The appointment of a master
10 may be appropriate in cases where the parties anticipate substantial discovery
11 disputes, numerous claims to be construed in connection with a motion for
12 summary judgment, a lengthy *Daubert* hearing, or a resolution of a difficult
13 computation of damages.

14 s. Schedule Worksheet: The parties must make every effort to agree on all
15 pretrial and trial dates and must complete the attached Schedule of Pretrial and
16 Trial Dates Worksheet ("Worksheet") and include it with their Joint Rule 26(f)
17 Report. The entries in the "Time Computation" column reflect what the Court
18 believes is appropriate for most cases and will allow the Court to rule on potentially
19 dispositive motions sufficiently in advance of the Final Pretrial Conference.
20 However, the parties may propose other dates by which the key requirements must
21 be completed. Each date should be stated as month, day, and year, *e.g.*, 1/15/2020.
22 Hearings shall be on Fridays at 2:00 p.m. The Final Pretrial Conference shall be
23 held on Friday at 1:00 p.m. All deadlines shall be on Fridays. The parties must
24 avoid federal holidays. The Court may order dates different from those the parties
25 propose. The discovery cut-off date is the last day by which all depositions must
26 be completed, responses to previously served written discovery must be provided,
27 and motions concerning discovery disputes must be heard. The cut-off date for
28 motions is the last date on which motions must be heard, not filed. If the parties

would like the Court to set dates in addition to those listed on the Worksheet, they may so request by separate Stipulation and Proposed Order. Additional hearings are often appropriate for class actions, patent cases, and cases for benefits under the Employee Retirement Income Security Act of 1974 (“ERISA”).

t. Class Actions: If the action is a putative class action, the parties must provide a proposed briefing schedule for the motion for class certification according to the deadlines described Court’s Civil Standing Order. The Court expects the parties to act diligently and begin discovery immediately because the motion for class certification must be filed no later than one-hundred-eighty (180) days from the date originally set for the Scheduling Conference unless the Court orders otherwise. In other words, a continuance of the date for the Scheduling Conference will not extend the time to file the motion for class certification.

u. Other issues: A statement of any other issues affecting the status or management of the case, including unusually complicated technical or technological issues, disputes over protective orders, extraordinarily voluminous document production, non-English speaking witnesses, reasonable ADA accommodations, discovery in foreign jurisdictions, the applicability of foreign law, the advanced age or health of parties or key witnesses, and any proposals concerning severance, bifurcation, or other ordering of proof.

The Joint Rule 26(f) Report should set forth the above-described information under section headings corresponding to those in this Order.

II. Scheduling Conference

a. Continuance: A request to continue the Scheduling Conference will be granted only for good cause. The parties should refer to the Court’s Standing Order for additional guidance regarding requests for continuances.

b. Vacating the Scheduling Conference: The Court may vacate the Scheduling Conference and issue the Scheduling Order based solely on the parties’ Joint Rule 26(f) Report pursuant to Federal Rule of Civil Procedure 16(b).

c. Participation: If the Court elects to conduct a Scheduling Conference, lead trial counsel must attend unless excused by the Court for good cause before the Conference.

d. Failure to Submit a Joint Report: The failure to submit a Joint Report in advance of the Scheduling Conference or to attend the Scheduling Conference may result in the dismissal of the action, striking the Answer and entering a default, and/or the imposition of sanctions.

III. Notice to be Provided by Counsel

Plaintiff's counsel or, if Plaintiff is appearing pro se, Defendant's counsel, shall provide this Order to any parties who first appear after the date of this Order and to parties who are known to exist but have not yet entered appearances.

IV. Disclosures to Clients

Counsel are ordered to deliver to their clients a copy of this Order and of the Court's Scheduling Order, which will contain the schedule the Court sets at the Scheduling Conference.

V. Court's Website

This and all other generally applicable orders of this Court are available on the Central District of California website, <https://www.cacd.uscourts.gov/>. The Local Rules are also available on the Court's website at <https://www.cacd.uscourts.gov/court-procedures/local-rules>.

The Court thanks the parties and their counsel for their anticipated cooperation.

IT IS SO ORDERED.

Dated: May 25, 2023



SUNSHINE S. SYKES
UNITED STATES DISTRICT JUDGE

DISTRICT JUDGE SUNSHINE S. SYKES

SCHEDULE OF PRETRIAL AND TRIAL DATES WORKSHEET

Please complete this worksheet jointly and file it with your Joint Rule 26(f) Report.
The parties must make every effort to agree on dates or the Court will set them.

Case No.	Case Name:		
Trial and Final Pretrial Conference Dates		Pl(s)' Date mm/dd/yyyy	Def(s)' Date mm/dd/yyyy
Check one: <input type="checkbox"/> Jury Trial or <input type="checkbox"/> Bench Trial [Monday at 9:00 a.m. within 12-15 months of Scheduling Conference based on complexity] Estimated Duration: _____ Days			
Final Pretrial Conference ("FPTC" [L.R. 16], [Friday at 1:00 p.m. at least 17 days before trial]			
Event ¹ Note: All deadlines shall be on Fridays. Hearings shall be on Fridays at 2:00 p.m.	Time Computation²	Pl(s)' Date mm/dd/yyyy	Def(s)' Date mm/dd/yyyy
Last Date to <u>Hear</u> Motion to Amend Pleadings or Add Parties	6 weeks after Scheduling Conference		
Fact Discovery Cut-Off (no later than deadline for filing dispositive motion)	27 weeks before FPTC		
Expert Disclosure (Initial)	26 weeks before FPTC		
Expert Disclosure (Rebuttal)	24 weeks before FPTC		
Expert Discovery Cut-Off	22 weeks before FPTC		
Last Date to <u>Hear</u> Motions • Rule 56 Motion due at least 49 days before hearing; Rule 56 Opposition due at least 35 days before hearing; Rule 56 Reply due at least 28 days before hearing. • Deadlines for all other motions are pursuant to L.R. 6-1, 7-9, 7-10.	11 weeks before FPTC		
Deadline to Complete Settlement Conference [L.R. 16-15] <u>Select one:</u> <input type="checkbox"/> 1. Magistrate Judge (with Court approval) <input type="checkbox"/> 2. Court Mediation Panel <input type="checkbox"/> 3. Private Mediation	8 weeks before FPTC		
Deadline to File Motions in Limine	6 weeks before FPTC		
Deadline for Oppositions to Motions in Limine	4 weeks before FPTC		
<u>Trial Filings</u> (first round) • Memoranda of Contentions of Fact and Law [L.R. 16-4] • Witness Lists [L.R. 16-5] • Joint Exhibit List [L.R. 16-6.1] • Joint Status Report Regarding Settlement • Proposed Findings of Fact and Conclusions of Law [L.R. 52] (bench trial only) • Declarations containing Direct Testimony, if ordered (bench trial only)	4 weeks before FPTC		
<u>Trial Filings</u> (second round) • Joint Proposed Final Pretrial Conference Order [L.R. 16-7] • Joint Agreed Upon Proposed Jury Instructions (jury trial only) • Disputed Proposed Jury Instructions (jury trial only) • Joint Proposed Verdict Forms (jury trial only) • Joint Proposed Statement of the Case (jury trial only) • Proposed Voir Dire Questions, if any (jury trial only) • Evidentiary Objections to Declarations of Direct Testimony (bench trial only)	2 weeks before FPTC		
Hearing on Motions in Limine	1 week before FPTC		

¹ The parties may seek dates for additional events by filing a separate Stipulation and Proposed Order.

² The numbers below represent the Court's recommended timeline. The parties may propose alternate dates based on the needs of each individual case. Class Actions, patent, and ERISA cases may need to vary from the above.